



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) citation</b>	Primary action: Article 55, 9VAC5-40 (Existing Stationary Sources) Secondary action: 9VAC5-20-21
<b>Regulation title</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Sewage Sludge Incinerators (Rev. B12)
<b>Document preparation date</b>	June 11, 2012

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 A of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Designated pollutants are pollutants for which new source performance standards have been established under § 111(b) of the federal Clean Air Act. A designated facility is an existing facility which emits a designated pollutant and which would be subject to a standard of performance for that pollutant if the facility were new. The Act requires the U.S. Environmental Protection Agency (EPA) to establish procedures for states to submit plans to control facilities that emit designated pollutants. These procedures are established in Subpart B of 40 CFR Part 60. Section 129 requires that EPA establish performance standards and other requirements pursuant to § 111 and § 129 for each category of solid waste incineration units. Such standards include emissions limitations and other requirements applicable to new units and guidelines and other requirements applicable to existing units. It also requires states to submit plans for these sources in a process similar to that in § 111(d). Subpart B provides that EPA publish guideline documents for development of state emission standards after promulgation of any standard of performance for designated pollutants. The emission guidelines (EGs) reflect the degree of emission reduction attainable with the best adequately demonstrated systems of emission reduction, considering costs, applied to existing facilities. EPA established EGs for sewage sludge incinerators in the Federal Register of March 21, 2011 (76 FR 15372). In order to implement the EGs, it is necessary for Virginia to develop and adopt a state regulation containing those limits.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency, including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On June 8, 2012 the State Air Pollution Control Board took final action to adopt amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution," specifically, Emission Standards for Sewage Sludge Incineration Units, Article 55 of 9VAC5-40 (Existing Stationary Sources). The regulatory action is to be effective as provided in the Administrative Process Act.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent EPA regulations.

In adopting these amendments, the board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
9VAC5-20-21		Documents incorporated by reference.	Needed in order to reference the most current version of the federal rule by reference into the state rule, thus enabling the state to implement the federal rule.
	9VAC5-40-8200		Create applicability provisions. Needed in order to properly implement federal requirements.
	9VAC5-40-8210		Provide definitions. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8220		Establish emission limits and emission standards as required by 40 CFR 60.5165. Needed in order to properly implement federal requirements.
	9VAC5-40-8230		Establish provisions for visible emissions. Needed in order to properly implement state requirements.
	9VAC5-40-8240		Establish provisions for fugitive dust/emissions. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8250		Establish provisions for odor. Needed in order to properly implement state requirements.

	9VAC5-40-8260		Establish provisions for toxic pollutants. Needed in order to properly implement state requirements.
	9VAC5-40-8270		Establish operator training and certification requirements. Needed in order to properly implement federal requirements.
	9VAC5-40-8280		Establish a compliance schedule. Needed in order to properly implement federal requirements.
	9VAC5-40-8290		Specify operating requirements. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8300		Establish compliance provisions. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8310		Establish performance testing, monitoring, and calibration requirements. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8320		Establish recordkeeping and reporting requirements. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8330		Specify registration requirements. Needed in order to properly implement state requirements.
	9VAC5-40-8340		Establish facility and control equipment maintenance or malfunction requirements. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8350		Provide requirements for federal (Title V) operating permits. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8360		Describe additional permitting requirements to which sources may be potentially subject. Needed in order to properly implement federal and state requirements.
	9VAC5-40-8370		List documents incorporated by reference. Needed in order for the regulation itself to operate properly.

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: (1) the establishment of less stringent compliance or reporting requirements; (2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) the consolidation or simplification of compliance or reporting requirements; (4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and (5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The regulations apply to all facilities, including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; or (5) exemption of small businesses from all or any part of the requirements contained in the proposed regulation for all small businesses would directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulations.

### Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

---

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

TEMPLATES\EXEMPT\TH09  
REG\DEV\B12-08TF